

<b>ADRIAN D. MURRAY,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b><u>ORDER</u></b>
	)	
<b>JOHN DOE, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

Then, in his Partial Voluntary Dismissal, Plaintiff moves the Court for a voluntary dismissal of the state tort action in the N.C. Industrial Commission “as to the N.C. Department of Public Safety,” but wishes to maintain his claims against the individual defendants in his Industrial Commission case for purposes of removal to this Court. [Doc. 14].


Plaintiffs' motions will be denied. This Court is without authority in law to remove Plaintiff's case in the Industrial Commission to the District Court under the circumstances of this case. Plaintiff's Petition for Removal indicates his action in the Industrial Commission is based on allegations of gross negligence, a state tort claim. An action that could not have been originally filed in federal court cannot be removed to federal court. City of Chicago v. Int'l College of Surgeons, 522 U.S. 156, 163, 118 S.Ct. 523, 529 (1997); 28 U.S.C. § 1441(a). Further, it is a defendant's, not plaintiff's, right to remove an action to a different or proper forum when such removal is allowed by the law. See id. The Court is also without authority to dismiss any defendants from any action in the Industrial Commission.

**IT IS THEREFORE ORDERED** that:

1. Plaintiff's motion for voluntary dismissal [Doc. 14] is **DENIED**.
2. Plaintiff's Petition for Removal of Civil Action from State Court [Doc. 15] is also **DENIED**.

**IT IS SO ORDERED.**

Signed: May 23, 2019

  
Frank D. Whitney  
Chief United States District Judge 